

## § 301.6103(p)(2)(B)-1T

## 26 CFR Ch. I (4-1-02 Edition)

(2) The term *State tax agency* means an agency, body, or commission described in section 6103(d) of the Code; and

(3) The term *Department of Justice* includes offices of the United States Attorneys.

[T.D. 7723, 45 FR 65573, Oct. 3, 1980, as amended by T.D. 8271, 54 FR 46383, Nov. 3, 1989; T.D. 8695, 61 FR 66218, Dec. 17, 1996]

### § 301.6103(p)(2)(B)-1T Disclosure of returns and return information by other agencies

(a) *General rule.* Subject to the requirements of paragraphs (b), (c), and (d) of this section, returns or return information that have been obtained by a Federal, state or local agency, or its agents or contractors in accordance with section 6103 (the “first recipient”) may be disclosed by the first recipient to another recipient authorized to receive such returns or return information under section 6103 (the “second recipient”).

(b) *Approval by Commissioner.* A disclosure described in paragraph (a) of this section may be made if the Commissioner of Internal Revenue (the “Commissioner”) determines, after receiving a written request under this section, that such returns or return information are more readily available from the first recipient than from the Internal Revenue Service. The disclosure authorization by the Commissioner shall be directed to the head of the first recipient and may contain such conditions or restrictions as the Commissioner may prescribe. The disclosure authorization may be revoked by the Commissioner at any time.

(c) *Requirements and restrictions.* The second recipient may only receive returns or return information as authorized by the provision of section 6103 applicable to such second recipient. Any returns or return information disclosed may only be used by the second recipient for a purpose authorized by and subject to any conditions imposed by section 6103 and the regulations thereunder, including, if applicable, safeguards imposed by section 6103(p)(4).

(d) *Records and reports of disclosure.* The first recipient shall maintain to the satisfaction of the Internal Revenue Service a permanent system of

standardized records regarding such disclosure authorization described in paragraph (a) of this section and any disclosure of returns and return information made pursuant to such authorization, and shall provide such information as prescribed by the Commissioner in order to enable the Internal Revenue Service to comply with its obligations under section 6103(p)(3) to keep accountings for disclosures and to make annual reports of disclosures to the Joint Committee on Taxation. The information required for reports to the Joint Committee on Taxation must be provided within 30 days after the close of each calendar year. The requirements of this paragraph do not apply to the disclosure of returns and return information as provided by paragraph (a) of this section which, had such disclosures been made directly by the Service, would not have been subject to the recordkeeping requirements imposed by section 6103(p)(3)(A).

(e) *Effective date.* This section is applicable on December 13, 2001.

[T.D. 8968, 66 FR 64352, Dec. 13, 2001]

### § 301.6103(p)(7)-1 Procedures for administrative review of a determination that a State tax agency has failed to safeguard Federal tax returns or return information.

(a) *Notice of Service’s intention to terminate disclosure to a State tax agency.* Notwithstanding subsection (d) of section 6103, the Internal Revenue Service may terminate disclosure of Federal returns and return information to a State agency, body, or commission described in section 6103(d) (hereinafter in this section referred to as a State tax agency) if the Service makes a determination that:

(1) A State tax agency has made unauthorized disclosure of Federal returns or return information received from the Service and that the State tax agency has not taken adequate corrective action to prevent repetition of the unauthorized disclosure, or

(2) A State tax agency does not satisfactorily maintain the safeguards described in subsection (p)(4) of section 6103, and has made no adequate plan to improve its system to maintain those safeguards satisfactorily. Prior to terminating disclosure, the Service will

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notify the State tax agency in writing of the Service's preliminary determination and of the Service's intention to discontinue disclosure of Federal returns and return information to the State tax agency. Upon so notifying the State tax agency, the Service, if it determines that Federal tax administration would otherwise be seriously impaired, may suspend further disclosure of Federal returns and return information to the State tax agency pending a final determination by the Commissioner or Deputy Commissioner described in subparagraph (2) of paragraph (c) of this section.

(b) *State tax agency's right to appeal.* A State tax agency shall have 30 days from the date of receipt of a notice described in paragraph (a) of this section to appeal the preliminary determination described in paragraph (a) of this section. The appeal shall be made directly to the Commissioner.

(c) *Procedures for administrative review.* (1) To appeal a preliminary determination described in paragraph (a) of this section, the State agency shall send a written request for a conference to: Commissioner of Internal Revenue (Attention: C), 1111 Constitution Avenue, NW., Washington, D.C. 20224. The request must include a complete description of the State tax agency's present system of safeguarding Federal returns or return information received from the Service. The request must then state the reason or reasons that the State agency believes that such system, including improvements, if any, to such system expected to be made in the near future, is or will be adequate to safeguard Federal returns or return information received from the Service.

(2) Within 45 days of the receipt of a request made in accordance with the provisions of subparagraph (1) of this paragraph, the Commissioner or Deputy Commissioner will personally hold a conference with representatives of the State tax agency, after which the Commissioner or Deputy Commissioner will make a final determination with respect to the appeal.

(Secs. 6103(p)(7) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1685, 26 U.S.C. 6103(p)(7); 68A Stat. 917; 26 U.S.C. 7805))

[T.D. 7693, 45 FR 26325, Apr. 18, 1980]

### § 301.6104(a)-1 Public inspection of material relating to tax-exempt organizations.

(a) *Application for tax exemption and supporting documents.* If the Internal Revenue Service determines that an organization described in section 501 (c) or (d) is exempt from taxation for any taxable year, the application for tax exemption upon which the determination is based, together with any supporting documents, is open to public inspection. Some applications for tax exemption have been destroyed and therefore are not available for inspection. For purposes of determining the availability for public inspection, a claim for tax exemption filed to reestablish exempt status after denial thereof under the provisions of section 503 or 504 (as in effect on December 31, 1969), or under the corresponding provisions of any prior revenue law, is considered an application for tax exemption.

(b) *Letters or documents issued by the Internal Revenue Service with respect to an application for tax exemption.* If an application for tax exemption is filed with the Internal Revenue Service after October 31, 1976, and is open to public inspection under paragraph (a) of this section, then any letter or document issued to the applicant by the Internal Revenue Service which relates to the application is also open to public inspection. For rules relating to when a letter or document is issued, see § 301.6110-2(h). Letters or documents to which this paragraph applies include, but are not limited to—

(1) Favorable rulings and determination letters (see § 601.201(n)(1)) issued in response to applications for tax exemption,

(2) Technical advice memoranda (see § 601.201(n)(9)) issued with respect to an approved, or subsequently approved, application for tax exemption, and

(3) Letters issued in response to an application for tax exemption that propose a finding that the organization is not entitled to be exempt from tax, if the organization is subsequently determined, on the basis of the application, to be exempt from tax.